

Testimony –Special House Committee on Tort Reform
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Mr. Chairman and members of the committee, I certainly identify with the objectives of this committee. If you would allow me to step back for a moment to set the stage by providing some brief history, it was the early 80s. Like today Michigan was largely in a single state recession. Jobs were leaving Michigan, certainly there was little expansion, and when compared to the other fifty states, let alone the world, lawsuit abuse was prevalent and discouraging people from creating and expanding jobs here. Young Michiganians were going to Ohio and Indiana

I decided to run for office because I had a young family and wanted a future for them here in Michigan. What was the cause for the problem? Michigan costs for creating jobs were too high. Taxes, regulations and lawsuits were overly burdensome when compared to the rest of the country.

On the law suit side, the State of Michigan paid huge amounts of taxpayer's moneys for excessive lawsuits on highways. There were communities where OBGYNs didn't exist because they were afraid to practice, and businesses saw liability costs continue to rise.

Like today there is no single quick fix. We had to attack the problem on many fronts. Our intent wasn't to be like other states but to lead them and be in the forefront. We attacked the tax problem by aggressively lowering property taxes, the single business tax, and the income tax. We attacked the regulatory problem by shrinking the size of government, and reorganizing priorities. I won't spend time on those issues, as important as they were, because you are here specifically to talk about tort reform.

Again if we were going to turn Michigan around, we needed to lead not just be like other states in tort reform as well. Although some would like to make this a partisan issue it wasn't and shouldn't be today. We began with the special committee to look at specific aspects of the tort issue. As a result of our findings, we passed a major piece of Tort Reform legislation called the Tort Reform Act of 1986. The legislation dealt primarily with the abuses that led to higher taxes and medical expenses and availability. It passed with a Democrat House, Democrat Governor, and Republican Senate.

Several years later, the same problems that prompted the 1986 legislation, an increase in frivolous lawsuits, jammed dockets, and sky-rocketing insurance premiums, were beginning to resurface and continued to hurt Michigan's economy. Essentially, Michigan had a "litigation lottery" that encouraged lawyers to bring frivolous lawsuits to try and get a big jackpot. Product liability suits promised some of the biggest payoffs because

corporations are perceived by plaintiffs' lawyers as "deep pockets." Both business and consumers were hurt by the burden that high litigation costs imposed on our society. We also knew that any tort reforms that we passed needed to apply more broadly than what we had done in the past to include product liability suits.

In 1995, after extensive debate, the Legislature passed and the Governor signed two important bills, Senate Bill 344 and House Bill 4505. The bills implemented several significant reforms to our tort system, including: 1) Revisions to the burden of proof and presumptions at issue in product liability actions to cut down on frivolous suits against product manufacturers and sellers; 2) A limitation on suits against drug manufacturer related to drugs that have been approved for use by the FDA; 3) A requirement that expert testimony is admissible in a tort action only if the court finds that the opinion is reliable and helpful; 4) A reduction in the amount of the defendants' liability in a tort action by the percentage of the plaintiff's fault; 5) A requirement that the blame be shared by each person at fault for an injury, even individuals who are not party to a lawsuit, so that a single person isn't forced to shoulder an unfair amount of responsibility.

These reforms created a system that permits individuals with legitimate claims to be compensated, while preserving the ability of our job providers to compete in national and international markets. It removed the incentive for jobs to relocate outside of Michigan and eliminated the "hidden tax" imposed on consumers due to the increased price of consumer goods that result from high liability insurance premiums and litigations costs.

In the years immediately following the passage of the tort reform bills, Michigan's economy was moving ahead strongly. The unemployment rate was below the national average and Michigan became to be seen as a good state in which to do business. In the late 90s and in to 2000. Michigan led the country in the number of new manufacturing jobs created

In all my years in public service, I believe the tort reform effort was among the most significant accomplishments

And that brings us to today. Once again Michigan is suffering. Once again, we are in a single state recession. I am a part owner in a small office furniture business. It is expanding all over the country but struggling here in Michigan. You will hear this same story over and over again.

But today, we are not just competing with other states; but we are competing even more then ever in a global economy. Our manufacturing sector needs to be able to compete with other countries as well as other states. That means tort laws that are not just middle of the road in the country but can help us compete globally. In 2005 the U.S. Chamber of Commerce ranked Michigan 24th out of 50 states based on is favorability of our liability system. This isn't good enough if you want to create jobs in Michigan. As other states change their laws we have dropped. The U.S. News and World Report indicated we have over 30 times more lawsuits per person then Japan. Are our citizens safer then European or Asian competitors because of this? I don't think so. Does this reduce our global

competitive advantage to create jobs? Absolutely! If you give Michiganians the tools we will create jobs!

Because of global competition and restructuring of the manufacturing industry, there will be fewer jobs in manufacturing in the future. Similar to the challenges faced in agriculture and farming at the end of the last century. So Michigan needs to have laws that will attract new industries that will supplant many of those jobs for the next generation.

Few industries have more potential for growth in Michigan than the life sciences industry. To continue to attract and grow jobs in this industry I encourage you to not reverse the medical malpractice and FDA defense. That would absolutely send the wrong message.

In conclusion, I understand what its like to be in your shoes. Tort is a complicated subject and can get very emotional. But this is not a partisan issue. It is about having rational laws protecting those who are hurt while assuring we can compete in the national and global market for the creation and expansion of jobs. Global and national competition means we not only need to change our tax structure, but we need to build on the tort reform as well. Our manufacturing sector must have the tools to compete. New industries like the Life Sciences must have the tools to compete. We are in a single state recession and the action needed is for Michigan to lead, not follow. Job providers in all industries need a stable and good liability structure and being ranked 24th in the U.S. isn't good enough.

I commend the House for establishing a committee to review this important subject. It is important that you take the time to understand the underlying strength of the tort reforms achieved in the 1980s and 1990s and preserve what took great efforts to achieve. One of the worst things you could do for the creation of jobs is to reverse the progress that was made in the 80 s and 90s But I also encourage you to be bold and put Michigan in the forefront. Not only do we need tax restructuring that will make us globally competitive, but you should carefully examine our tort laws and make even greater improvements so that our Asian and European counterparts don't have any more advantages than they already do in this area.